

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DeANGELO STEPHENS,

Petitioner,

-v-

5:06-CR-302
5:08-CV-882

UNITED STATES OF AMERICA,

Respondent.

APPEARANCES:

OF COUNSEL:

DeANGELO STEPHENS
14051-067
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RICHARD R. SOUTHWICK, ESQ.
Asst. United States Attorney

DAVID N. HURD
United States District Judge

ORDER

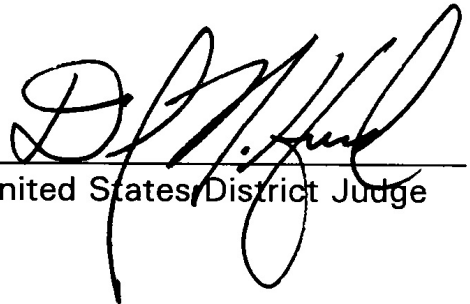
Petitioner DeAngelo Stephens brought suit pursuant to 28 U.S.C. § 2255 seeking to vacate his sentence for kidnaping and possession of a firearm in relation to a crime of violence. The petition was denied by Order of June 1, 2009. There was no basis to vacate petitioner's sentence of 171 months, since he entered into a plea agreement under which he waived his right to appeal or collaterally attack any sentence less than 240 months.

Petitioner has not made a "substantial showing of the denial of a constitutional right" pursuant to 28 U.S.C. § 2253(c)(2), a prerequisite to issuance of a certificate of appealability.

Based upon the foregoing, it is

ORDERED that a Certificate of Appealability will not be issued in this matter.

IT IS SO ORDERED.


United States District Judge

Dated: October 21, 2009
Utica, New York.